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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,)	1:11-CV-01251-GSA
)	
12 Plaintiff,)	FINAL JUDGMENT OF FORFEITURE
)	
13 v.)	
)	ORDER DIRECTING THE CLERK OF
14 APPROXIMATELY \$77,000.00 IN U.S.)	THE COURT TO CLOSE THIS CASE
15 CURRENCY,)	
)	
16 Defendant.)	

17 Pursuant to the Stipulation for Final Judgment of Forfeiture, the Court finds:

18 1. This is a civil forfeiture action against the defendant approximately \$77,000.00
19 in U.S. Currency (hereafter “defendant currency”) seized on or about January 25, 2011.

20 2. A Verified Complaint for Forfeiture *In Rem* (“Complaint”) was filed on July 28,
21 2011, alleging that said defendant currency is subject to forfeiture to the United States of
22 America pursuant to 21 U.S.C. § 881(a)(6).

23 3. On August 2, 2011, the Clerk issued a Warrant for Arrest for the defendant
24 currency. The warrant for the defendant currency was duly executed on August 9, 2011.

25 4. Beginning on August 3, 2011, for at least 30 consecutive days, the United
26 States published notice of this action on the official government forfeiture site

27 www.forfeiture.gov.

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1 5. In addition to the public notice on the official internet government forfeiture
2 site www.forfeiture.gov, actual notice or attempted notice was given to the following
3 individuals:

- 4 a. Felix Velasco
- 5 b. Jorge Luis Tostado Delgado
- 6 c. Edward M. Burch, attorney

7 6. On August 15, 2011, Felix Velasco filed a Verified Claim of Felix Velasco
8 Opposing Forfeiture and Answer of Felix Velasco to Government's Complaint for Forfeiture
9 In Rem.

10 7. No other parties have filed claims or answers in this matter, and the time in
11 which any person or entity may file a claim and answer has expired. As such, the Clerk of
12 the Court entered a Clerk's Certificate of Entry of Default against Jorge Luis Tostado
13 Delgado on April 19, 2013.

14 8. On January 18, 2013, Claimant filed a Motion to Dismiss for Lack of
15 Jurisdiction. On January 25, 2013, the United States filed a Motion to Amend the
16 Complaint to add the Verification signature page. On February 1, 2013, the United States
17 filed its Opposition to the Motion to Dismiss. On February 22, 2013, Claimant filed his
18 Opposition to the Motion to Amend. On February 28, 2013, the United States filed its Reply
19 to the Opposition to the Motion to Amend. On March 1, 2013, Claimant filed his Reply to
20 the Opposition to the Motion to Dismiss. On March 4, 2013, Claimant filed a Notice of
21 Newly Discovered Pertinent Authority. On March 5, 2013, the United States filed an
22 Objection to the Notice of Newly Discovered Pertinent Authority.

23 9. Prior to the resolution by the Court of the pending motions, on April 23, 2013,
24 the parties file a Notice of Settlement, and on May 10, 2013, filed the Proposed Order for
25 final Judgment of Forfeiture and the Stipulation for Final Judgment of Forfeiture.

26 10. Thereafter, and prior to the Court's issuance of the Order for Final Judgment
27 of Forfeiture, Claimant died.

28 11. On October 30, 2013, Claimant's counsel filed a Suggestion of Death.

1 12. Thereafter, on December 20, 2013, the Court issued its Order on the pending
2 Motion to Dismiss and Motion to Amend, allowing the United States to file an Amended
3 Complaint.

4 13. On December 20, 2013, the First Amended Verified Complaint was filed.

5 14. On December 31, 2013, the Clerk issued an Amended Warrant for Arrest for
6 the defendant currency. The Amended Warrant was duly executed on January 6, 2014.

7 15. Beginning on February 5, 2014, for at least 30 consecutive days, the United
8 States published notice of the amended action on the official government forfeiture site
9 www.forfeiture.gov. The Declaration of Publication was filed on March 7, 2014.

10 16. Service of the Amended Complaint and Amended Warrant for Arrest of
11 Articles In Rem was effectuated on potential claimant Jorge Luis Tostado Delgado. No
12 claim was filed by or on behalf of Jorge Luis Tostado Delgado. The Clerk of the Court
13 entered a Clerk's Certificate of Entry of Default against Jorge Luis Tostado Delgado on
14 March 12, 2014. The United States and Claimant also join in a request that as part of the
15 Final Judgment of Forfeiture in this case the Court thereafter enter a default judgment
16 against the interest, if any, of Jorge Luis Tostado Delgado.

17 17. No other parties have filed claims or answers in this matter, and the time in
18 which any person or entity may file a claim and answer has expired.

19 Based on the above findings, and the files and records of the Court, it is hereby
20 **ORDERED AND ADJUDGED:**

21 1. The Court adopts the Stipulation for Final Judgment of Forfeiture entered into
22 by and between the parties to this action.

23 2. That judgment is hereby entered against Felix Velasco, Jorge Luis Tostado
24 Delgado, and all other potential claimants.

25 3. After entry by the Court of a Final Judgment of Forfeiture herein, \$46,200.00
26 of the defendant approximately \$77,000.00 in U.S. Currency, together with any interest
27 that has accrued on the entire \$77,000.00, shall be forfeited to the United States pursuant
28 to 21 U.S.C. § 881(a)(6), to be disposed of according to law.

1 4. After entry by the Court of a Final Judgment of Forfeiture herein, but no later
2 than 60 days after Claimant has provided the necessary electronic funds transfer
3 paperwork, \$30,800.00 of the defendant approximately \$77,000.00 in U.S. Currency shall be
4 returned to Claimant, through his attorney of record, Edward M. Burch, Law Offices of
5 David Michael, One Sansome Street, Suite 3500, San Francisco, California 94104,
6 telephone (415) 946-8996.

7 5. That the parties and their servants, agents, and employees and all other public
8 entities, their servants, agents, and employees, are released from any and all liability
9 arising out of or in any way connected with the seizure, arrest, or forfeiture of the defendant
10 currency. This is a full and final release applying to all unknown and unanticipated
11 injuries, and/or damages arising out of said seizure, arrest, or forfeiture, as well as to those
12 now known or disclosed. The parties waived the provisions of California Civil Code § 1542.

13 6. That pursuant to the stipulation of the parties, and the allegations set forth in
14 the Complaint filed on July 28, 2011, and the Amended Complaint filed on December 20,
15 2013, the Court finds that there was probable cause for arrest and seizure of the defendant
16 currency, and for the commencement and prosecution of this forfeiture action, and a
17 Certificate of Reasonable Cause pursuant to 28 U.S.C. § 2465 shall be entered accordingly.

18 7. All parties are to bear their own costs and attorney's fees.

19 8. The U.S. District Court for the Eastern District of California, Hon. Gary S.
20 Austin, District Court Magistrate Judge, shall retain jurisdiction to enforce the terms of
21 this Final Judgment of Forfeiture.

22 9. The Clerk of the Court is directed to close this case.

23 SO ORDERED THIS 25 day of April, 2014.

24
25 /s/ Gary S. Austin
26 GARY S. AUSTIN
United States Magistrate Judge

27 CERTIFICATE OF REASONABLE CAUSE

28 Based upon the allegations set forth in the Complaint filed July 28, 2011, the First

1 Amended Complaint filed December 20, 2013, and the Stipulation for Final Judgment of
2 Forfeiture filed herein, the Court enters this Certificate of Reasonable Cause pursuant to 28
3 U.S.C. § 2465, that there was reasonable cause for the seizure or arrest of the defendant
4 currency, and for the commencement and prosecution of this forfeiture action.

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6 IT IS SO ORDERED.

7 Dated: April 25, 2014

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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